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628 182 619

We would emphasize further that blood-feuds only directly involve a few persons and that though they sometimes cause violence between whole local communities—a feud in a wider sense—ordinary social contacts continue in spite of them. The strands of kinship and affinity, of age-set affiliations, and of military and even economic interests remain unbroken; and these strands act like elastic between the sections, being capable of considerable expansion by disturbed political relations, but always pulling the communities together and keeping them as a single group in relation to other groups of the same kind. As we have explained, these strands lessen in number and strength the larger the community, but they stretch even beyond tribal frontiers. Increasing anarchy, increasing difficulty in settling feuds, goes together with lessening frequency of social contacts of all kinds. Social cohesion increases as the size of the community narrows.

VIII

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There are, of course, disputes between Nuer other than those about homicides, but they can be treated briefly and in direct relation to homicide and the feud. In a strict sense Nuer have no law. There are conventional compensations for damage, adultery, loss of limb, and so forth, but there is no authority with power to adjudicate on such matters or to enforce a verdict. In Nuerland legislative, judicial, and executive functions are not invested in any persons or councils. Between members of different tribes there is no question of redress; and even within a tribe, in my experience, wrongs are not brought forward in what we would call a legal form, though compensation for damage (*ruoth*) is sometimes paid. A man who considers that he has suffered loss at the hands of another cannot sue the man who has caused it, because there is no court in which to cite him, even were he willing to attend it. I lived in intimacy for a year with Nuer and never heard a case brought before an individual or a tribunal of any kind, and, furthermore, I reached the conclusion that it is very rare for a man to obtain redress except by force or threat of force. The recent introduction of Government courts, before which disputes are now sometimes

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settled, in no way weakens this impression, because one well knows how among other African peoples cases are brought before courts under Government supervision which would not previously have been settled in a court, or even settled at all, and how for a long time after the institution of such Government tribunals they operate side by side with the old methods of justice.

Before discussing the chief characteristics of Nuer legal procedure I record that, according to verbal information, for I have never observed the procedure, one way of settling disputes is to use a leopard-skin chief as mediator. Thus, I was told that a man who has a cow stolen may ask a leopard-skin chief to go with him to request the return of the cow. The chief goes first, with several of the elders of his village, to the plaintiff's homestead, where he is given beer to drink. Later they go, with a deputation from the plaintiff's village, to the defendant's village, and here also the chief may be presented with some beer or a goat. The chief is considered to be neutral and a certain sanctity attaches to his person so that there is little likelihood of the deputation being injured. The visiting elders sit with elders of the defendant's village and the chief in one of the byres and talk about the matter in dispute. The owner of the animal gives his view and the man who has stolen it attempts to justify his action. Then the chief, and anybody else who wishes to do so, expresses an opinion on the question. When every one has had his say the chief and elders withdraw to discuss the matter among themselves and to agree upon the decision. The disputants accept the verdict of the chief and the elders and, later, the owner of the animal gives the chief a young steer or a ram unless he is a very poor man, whom he gives him nothing.

If a man has a dispute with another of the same neighbourhood they may both go to the homestead of a local leopard-skin chief and lay their spears on the ground in his byre. A man would not plant his spear upright in a chief's byre, and I was told that were he to do so a bystander might appropriate it, as disrespect had thereby been shown to the chief. When both men have stated their views the chief and the elders discuss the matter outside the byre and re-enter it to acquaint the disputants of their decision. The person in whose favour the decision has been given hands his spear to the chief, who either gives it to a friend or spits on it and returns it to its owner. It was clear from the way in which my informants described the whole procedure that the chief gave his final decision as an opinion couched in persuasive language and

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624 627 not as a judgement delivered with authority. Moreover, whilst the sacredness of the chief and the influence of the elders carry weight, the verdict is only accepted because both parties agree to it. No discussion can be held unless both parties want the dispute settled and are prepared to compromise and submit to arbitration, the chief's role being that of mediator between persons who wish other people to get them out of a difficulty which may lead to violence. The man against whom the decision is pronounced may give way to honour the elders and the chief where he would not give way directly and without their intervention, for he does not lose prestige by accepting their verdict. If there is any doubt about the facts, certain oaths, which are in the nature of ordeals, may be employed, such as swearing statements on the chief's leopard skin.

For a dispute to be settled in this way not only is it necessary that both parties should want the matter amicably settled, but it is also necessary that they should themselves reach agreement during the discussion. No one can compel either party to accept a decision, and, indeed, a decision cannot be reached unless there is unanimity, since the elders are of both parties to the dispute. They go on talking, therefore, till every one has had his say and a consensus has been reached.

The five important elements in a settlement of this kind by direct negotiation through a chief seem to be (1) the desire of the disputants to settle their dispute, (2) the sanctity of the chief's person and his traditional role of mediator, (3) full and free discussion leading to a high measure of agreement between all present, (4) the feeling that a man can give way to the chief and elders without loss of dignity where he would not have given way to his opponent, and (5) recognition by the losing party of the justice of the other side's case.

I repeat that I have not seen this method employed and add that I am of the opinion that it is very rarely used and only when the parties are fairly close neighbours and belong to communities closely linked by many social ties. In theory any member of a tribe can obtain redress from any other, but we know of no evidence that leads us to suppose that it was often obtained. Before summing up what we judge to be the nature and scope of legal relations in Nuerland we record a few brief examples of typical acts likely to lead to violence if some reparation is not made.

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684 836 happens that a man impregnates an unmarried girl and he is then expected to marry her. The girl's kinsmen may raid his kraal and seize some of his cattle, but he will try to circumvent this by hiding his beasts in the kraals of relatives and neighbours. If later he marries the girl the cattle her kinsmen have seized count as part of the bride-wealth, and if he refuses to marry her they count as payment for possession of the child, so that in either case he pays no indemnity but only a fee to establish his rights. Here again, in point of fact, it is very difficult for the girl's brothers to seize the man's cattle, unless he is willing to let them do so, and there is always the risk of a fight which may become [835] general. One does not fornicate with the girls of one's own village, for they are generally related to one, so that when an issue of the kind arises it is generally between persons of different villages of the same district. If the young man can avoid being hit over the head with a club at the time of the incident and keeps clear of the girl's village for a few months he is not likely to pay an indemnity or to suffer any other consequences. If he has put the girl in child he will, in normal circumstances, send a kinsman to say that he intends to marry her. The girl is then regarded as engaged and the young man becomes son-in-law to her parents and one does not injure one's son-in-law. Even if he refuses to marry their sister, the brothers hesitate to attack the father of her child.

683 It is possible to obtain from Nuer a list of compensations for injuries to the person: e.g. ten cattle for a broken leg or skull, ten cattle for the loss of an eye, two cattle for a girl's broken teeth, &c. For a flesh wound, however serious, there is no compensation unless the man dies. In different parts of Nuerland the number of cattle to be paid in compensation varies. I have not recorded any instance of a man receiving such compensation, except from a Government court, but Nuer say that he would receive it if his kinsmen were strong enough to retaliate.

754 ●627 It is alleged that, in the old days, if a man died of magic his kinsmen would try to slay the magician (*guan wal*), though I have not recorded a case of a magician having been killed. Nuer point out that a magician does not use his magic against persons in his own community but only against persons of other villages, so that it is not easy to revenge yourself on him since he will be supported by his village who regard powerful magic as of value to their community. It is also said that in the old days a witch (*getk*) was sometimes slain, though I cannot say how often, if at all, this occurred.

583 627 Many disputes arise about bride-wealth: the husband's people do not pay what they have promised or there is a divorce and the

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583 627 wife's people do not return all the cattle that have been paid. In such circumstances the debtor does not deny the debt but puts forward a counterbalancing claim on some account or says that he has no cattle to settle it. Often enough he says this even when he has got cattle. The claimant can only be sure of getting his due if he takes it by force from the debtor's kraal or from the herd in the grazing-grounds. If he is strong and has the backing of a powerful lineage he is not resisted, since he has right on his side. Such matters are easily settled within a village and among people who share a common dry season camp because every one realizes that some agreement must be reached by discussion and that it must accord with justice. But when the parties belong to different, and maybe hostile, villages, settlement is not so easy. The leopard-skin chief may be employed, in the manner described, to bring the parties together for discussion and some agreement may then be reached, but many such debts are never settled. They are remembered for years. Perhaps some day, maybe in the next generation, an opportunity will occur to steal the cattle.

682 627 If a wife dies in her first pregnancy or childbirth the husband is held responsible. There is no question of a feud arising, but the husband loses the bride-cattle he has paid, since these now become blood-cattle for the loss of his wife. The husband is only responsible if the death occurs during childbirth before expulsion of the afterbirth. If there is any dispute about the mode of death or the number of cattle that are still owing it is settled by a mediator called *kuaa yoka* or *kuaa yiiei*, 'the chief of the mats', an office which pertains to certain lineages. This man has no other office and is not an important person in virtue of his role of arbitrator in disputes of this kind. It is easy to obtain compensation, as the father-in-law has the bride-wealth in his possession. There is, moreover, a tie of affinity and neither party is likely to resort to violence.

671 Using these brief notes on some exemplifications of the tendencies in Nuer law we may now state what these tendencies are. We speak of 'law' here in the sense which seems most appropriate when writing of the Nuer, a moral obligation to settle disputes by conventional methods, and not in the sense of legal procedure or of legal institutions. We speak only of civil law, for there do not seem to be any actions considered injurious to the whole community and punished by it. The informants who said that witches and magicians were sometimes killed stated that it was always individuals or groups of kin who waylaid them and killed them in vengeance.

[See pp. 163-64, cat. 116 — Analyst]

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The first point to note about Nuer law is that it has not everywhere the same force within a tribe, but is relative to the position of persons in social structure, to the distance between them in the kinship, lineage, age-set, and, above all, in the political, systems. In theory one can obtain redress from any member of one's tribe, but, in fact, there is little chance of doing so when he is not a member of one's district and a kinsman. The wider the area which contains the parties to a dispute the weaker the feeling of obligation to settle it and the more difficult the task of enforcing settlement, and, consequently, the less the likelihood of it being settled. Within a village differences between persons are discussed by the elders of the village and agreement is generally and easily reached and compensation paid, or promised, for all are related by kinship and common interests. Disputes between members of nearby villages, between which there are many social contacts and ties, can also be settled by agreement, but less easily and with more likelihood of resort to force. The nearer we get to the tribe the less the chances of settlement. Law operates weakly outside a very limited radius and nowhere very effectively. The lack of social control to which we have often referred is thus shown in the weakness of law, and the structural interrelations of tribal segments are seen in the relativity of law, for Nuer law is relative like the structure itself.

A cogent reason why there is little chance of redress between members of different secondary and primary tribal sections is that the basis of law is force. We must not be misled by an enumeration of traditional payments for damage into supposing that it is easy to exact them unless a man is prepared to use force. The club and the spear are the sanctions of rights. What chiefly makes people pay compensation is fear that the injured man and his kin may take to violence. It follows that a member of a strong lineage is in a different position from that of a member of a weak lineage. Also the chances of a man obtaining redress for an injury are less the further removed he is from the man who has injured him, since the opportunity for violence and the effectiveness of kinship backing lessen the wider the distance between the principals. Since self-help, with some backing of public opinion, is the main sanction it is only operative when

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62 people are within easy striking distance of one another. This is one of the main reasons why it is difficult to settle feuds when the parties belong to different primary or secondary tribal sections.

Most disputes occur in villages or camps and between persons of nearby villages, since people who live close to one another have more opportunities for dispute than those who live far from

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FIG. 11. Baked-mud grindstone with wooden grinder.

one another. Such quarrels are usually complicated by notions of kinship, affinity, age, and so forth and are very often the result of breaches of specific patterns of social behaviour rather than simple breaches of general social regulations. They are, therefore, generally settled in harmony with these traditional patterns. But, if they are not settled by the mediation of kinsmen, they are likely to lead to violence, because, as we have remarked, Nuer are at once prepared to fight if they are wronged or insulted, unless kinship, or great disparity in age, restrains them. If a man refuses to pay compensation for a wrong, there-

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fore, he runs a great risk of his skull being cracked with a club, and even of being speared if excitement runs high. And this is what often happens. 627

For this reason we have said that Nuer law, in so far as it applies to a study of political relations, must be treated in connexion with the blood-feud. Disputes can often be settled on account of close kinship and other social ties, but between tribesmen as such they are either settled by the aggrieved party using force, and this may result in homicide and blood-feud, or by the debtor giving way in the knowledge that force may be used and a feud result. It is the knowledge that a Nuer is brave and will stand up against aggression and enforce his rights by club and spear that ensures respect for person and property. 627 628

The Nuer has a keen sense of personal dignity and rights. The notion of right, *cuong*, is strong. It is recognised that a man ought to obtain redress for certain wrongs. This is not a contradiction of the statement that threat of violence is the main sanction for payment of compensation, but is in accord with it, for a man's kinsmen will only support him if he is right. It is doubtless true that if a man is weak it is unlikely that his being in the right will enable him to obtain satisfaction, but if he is in the right he will have the support of his kin and his opponent will not, and to resort to violence or to meet it the support of one's kin and the approval of one's community are necessary. One may say that if a man has right on his side and, in virtue of that, the support of his kinsmen and they are prepared to use force, he stands a good chance of obtaining what is due to him, so long as the parties to the dispute live near one another. 577 627

When we speak of a man being in the right we do not suggest that disputes are mostly a clear issue between right and wrong. Indeed, it would be correct to say that, usually, both parties are to some extent right and that the only question which arises is, Who has the greater right? To state the matter in a different way: a Nuer dispute is usually a balance of wrongs, for a man does not, except in sexual matters, wantonly commit an act of aggression. He does not steal a man's cow, club him, or withhold his bride-cattle in divorce, unless he has some score to settle. Consequently it is very rare for a man to deny the

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577 627 damage he has caused. He seeks to justify it, so that a settlement is an adjustment between rival claims. I have been told by an officer with wide experience of Africans that Nuer defendants are remarkable in that they very seldom lie in cases brought before Government tribunals. They have no need to, since they are only anxious to justify the damage they have caused by showing that it is retaliation for damage the plaintiff has inflicted earlier.

IX

624 Feuds are settled through the leopard-skin chief and he plays a minor role in the settlement of disputes other than homicide. It might be supposed that this functionary has a position of great authority, but this is not so. Indeed, on the same grounds as we have said that the Nuer have no law we might say that they also have no government. We devote a few lines to stating what are the ritual qualifications of the leopard-skin chief and then assess the part he plays in feuds and quarrels.

The few references in the writings of early travellers about Nuer leaders do not suggest that they were persons of very great authority.[1] The absence of any persons with sufficient authority or, except for a few prophets, with sufficient influence through whom an administrative system might be built up is stated in very direct terms by the earliest British officers to enter Nuerland.[2] The 'sheikhs' described in these early reports as lacking authority are probably the persons who were later known among Europeans as leopard-skin chiefs. A leopard-skin chief, *kuaar mam*, has a sacred association with the earth (*mam*) which gives him certain ritual powers in relation to it, including the power to bless or curse. However, lest it be supposed that the power to utter curses enables a chief to wield great authority I at once record that I have never observed a chief exercise this power. There are stories which recount the dire effects of a curse, but I think that as a rule a chief only ventures to threaten to utter one when he is officiating in a ritual capacity in the settlement of feuds, on which occasions he is expected to do so, the

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[1] Werne, op. cit., p. 207; Poncet, op. cit., p. 40; Brun-Rollet, op. cit., p. 221. Brun-Rollet's account is unacceptable.

[2] *Kaimakam G. Hawker, S.I.R.*, no. 98, 1901; *Bimbashi H. Gordon, S.I.R.*, no. 197, 1903.

8;Howell E, G-5 (1942-1944)1954
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Given that there were rules of conduct expressed in the terms *cang*, 'right', and *dur*, 'wrong', which controlled the relations of one Nuer with another and of one group with another group, what were the sanctions which made for the observance of those rules? The primary sanction, and one which is most affected by the establishment of public security and ordered administration today, is the sanction of self-help; retaliation if a wrong is committed, or the use of force to claim a right. This applies to individuals, who fear that those they have wronged or those to whom definite obligations have not been fulfilled will take physical action against them, and fear also that, because their action is agreed to be wrong, they will receive no support from their fellows in resisting. Moreover the wronged may receive the assistance of their own kinsmen and neighbours, who will overwhelm any attempt at resistance. This applies to groups of individuals in relation to other groups in the same way, and is expressed in the balanced opposition of tribal segments and kinship groups. A Nuer may owe one of his kinsmen a cow and refuse to pay it. His kinsman will take the cow by stealth or wrest it from him by force, and the success of this action will depend on the extent of the non-intervention of other relatives. In the relationship of individuals there is also the prevailing principle of collective responsibility, so that in fact there is rarely an isolated individual wrong or an isolated right. The strength of the right, or the extent of the wrong, is qualified by the relationship of the parties concerned. Further sanctions are social reprobation, unpopularity, loss of approval and respect of neighbours, and hence loss of the privileges which the individual possesses as a member of a community and which the community possesses as part of a larger social group. Such privileges are both social and political. They are also economic, because so many economic activities must be carried out collectively. For some wrongs there is also a religious sanction, but, as I shall attempt to show later, the religious sanction is often an expression of kinship ideals.

The force of all these sanctions is relative to the position in the social structure of the persons concerned. Clearly social obligations are likely to be more binding on persons not only related by blood but also closely associated in the activities of day to day life. Loss of privilege is a greater loss in such circumstances. Generally speaking, the closer the relationship, expressed in terms of kinship, in association by common residence, and economic co-operation, the greater the need to abide by accepted modes of behaviour. Not only is the need greater and therefore the likelihood of obedience greater too, but also the difficulty of composition, when there is a quarrel, is less, because the sanctions which ensure good relations with other persons within the group in other respects are more intense and therefore more effective. The reaction of indignation is not likely to run to such a pitch of ill-feeling

6:Howell E. G-5 (1942-1944)1954
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by Arab merchants, is usually available and bought with cash. Cases of this kind sometimes appear before the courts. The facts are not usually denied by the defendant, but execution is often resisted.

Gifts Given in Friendship (*math*)

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Another situation in which cattle are involved, and which is a frequent cause of litigation, is the institution of the 'Best Friend', known in Nuer as *math*. Two men will often form a bond of friendship by exchanging cattle either as a one-sided loan or as a direct exchange, each party taking the other's cow. This can scarcely be described as trade, but is often the cause of dispute since friends fall out.

Ngor Ngoun v. *Can Nyut* (*Johnny Nuer Case*).

Ngor and Can were 'best friends' (*math*). Ngor gave Can a black cow as a gift. Can gave Ngor a cow when Ngor got married. Ngor then asked Can to give him a cow in milk in order to feed his children. Can obliged by giving him a cow which he had received on the marriage of his daughter. Ngor, however, considered that the cow was a bad one and, after a violent quarrel with Can, demanded that their 'friendship' should be broken (*dak math*) publicly and that Can should give back his black cow. The matter was taken to court, but Ngor's claim was thrown out as groundless since Can had already given him two cows in exchange.

Exchanges of this sort are a corollary to this form of institutionalized friendship. Disputes of the kind mentioned above are simple enough, though often heated. It is perhaps surprising that they should appear before the courts at all, because the issues must be clear to everyone and there is rarely any doubt.

3. THE INFRINGEMENT OF RIGHTS IN PROPERTY

Self-help

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If the seizure of cattle, the property of another man, is defined as 'theft', then theft of cattle is a common offence among the Nuer. Nuer, however, distinguish clearly between what is considered licensed seizure, either openly or by stealth, and theft for which the thief can produce no customary justification. The word *kwal*, which is used loosely to describe both forms of misappropriation, is employed regularly, but in its more specific meaning it refers to this seizure of what is considered a man's right. Used in connexion with cattle the word implies that the culprit, however mistaken he may be, believes that through kinship ties or in settlement of a debt he has a legal claim to the cattle. Again, a man may seize for himself cattle which he regards as his just due in compensation for some injury done to him by their owner. Thus, for example, a man may seize six head of cattle

8:Howell E, G-5 (1942-1944)1954
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from a man who has seduced his wife because six head of cattle is the accepted scale of compensation for adultery. Having acquired the cattle, he is in a better position to negotiate his terms with their owner. In some cases he may take more than his recognized due, for this will give him an extra lever to get the matter settled, but in most cases he will wish to settle the matter amicably so that he does not run the risk of having them stolen back from him. Some compromise will be reached. In many cases, provided the culprit has reasonable customary grounds for his action, i.e. if he has right (*rang*) on his side, the owner of the cattle will not bother to resist and will readily agree to negotiate through some mediator, so that the transfer of the cattle may be socially recognized and not lead to blows between them. Moreover the closer the relationship between the man who takes the cattle and the owner, the more likely will it be that the former will have some legal justification for taking them. The expression, *ce yang-dit kuol*, so common among Nuer, usually means that someone has seized the speaker's cattle in (according to the speaker) the mistaken opinion that he had a definite right to them.

Frequently the culprit knows that he has only a very thin excuse for taking them, and often removes himself and the cattle to some distance where the owner can get legal satisfaction only with difficulty, for whereas in his own community opinion will be against him, the people with whom he takes refuge are not interested and do not know the full implications of the case. If the injured party agrees that the culprit has a right to the cattle, peaceable negotiations will follow; if he does not, disputes may result between them which may or may not lead to blows. According to Professor Evans-Pritchard, a man will never steal a cow from a fellow tribesman merely because he wants one.

He has, on the other hand, no hesitation in stealing cows from persons belonging to neighbouring tribes and will even go with friends to another tribe in order to steal from them. This theft (*kuol*) is not considered in any way wrong.[1]

This really comes under the heading of cattle-raiding, and depends on the current relations between tribes. If, as frequently happened in the past, tribes were technically at war with each other, then such cattle-raiding was considered a legitimate move in the course of war. Moreover, if a blood-feud existed and homicide cases remained unsettled, the seizure of cattle might have some legal justification behind it. Nuer tribes were not, however, always hostile, and the tribal boundaries did not imply such a rigid line of demarcation as to pre-

[1] Evans-Pritchard, *The Nuer*, p. 189. I quote this passage because it refers to conditions some twenty years ago when cattle raids were more common and since legal remedies through the courts were less effective than they are nowadays, 'self-help' was not unusual.

8:Howell-E. C-S (1942-1944)1954
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clude social relations and intermarriage. Moreover, a legal mechanism under the control of Leopard-Skin Chiefs existed whereby a state of war could be brought to an end when both sides were heartily sick of the endless danger and insecurity which such major feuds entailed. There are instances quoted in Nuer tribal history when these matters were settled, and though compensation for homicide was usually waived because of the large number of persons for whom compensation would be demanded on both sides, the illicit seizure of cattle was often assessed in the final count.

Therefore the seizure of cattle without legal justification, real or supposed, within a tribal community was extremely rare, and the stealing of cattle from other tribes was really an act of war. Raiding the Dinka, a legitimate Nuer prey, was something different. It was, however, extremely common for Nuer to 'take the law into their own hands' and wrest what they considered their just dues from their debtors without bothering to arrange peaceful negotiations through some mediator or, later, through the medium of established courts. In most cases this action was taken only if the defendant in the case was unwilling to negotiate. These observations apply largely to the past when no courts existed, or when they had not yet developed present standards of efficiency and effectiveness. Nevertheless Nuer still often seize cattle which they consider their just due.

Theft of Cattle

There are certain specific situations which fall within the true definition of theft: when cattle are taken or material possessions misappropriated without any real or supposed reason other than that the chief covets them. It has been mentioned that the word *kwai* applies generally to all situations when the rightful or wrongful seizure of stock or material objects takes place. There is a specific term in the Nuer vocabulary which is applied when stock or personal possessions are taken for no apparent reason other than that the chief wants them. That such a word exists at all and is used to describe these circumstances is evidence of the distinction. This word is *muor*:[1] a man will say *ee yang-de muon* or *ee yuke muon*, 'he has stolen my cow', 'he has stolen my money', and in using this expression he implies that the culprit did so for no accepted reason.

Cases where a man steals cattle from his neighbours merely because he covets them are rare. He would not be able to hide the theft unless

[1] Two other words are worth mentioning here. The word *puc* is used to describe situations where superior force is used, e.g. when cattle are raided by a more powerful group from a weaker one and, nowadays, when the Government or local authorities seize cattle by force. The word *muor*, which also means theft or misappropriation, implies deprivation by fraud or cunning, i.e. swindling. *Puon* also implies stealth or cunning.

8:Howell E, G-5 (1942-1944)1954
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Religious Functionaries and Magical Experts

We have seen that the Leopard-Skin Chief has certain duties to perform in connexion with the composition of blood-feuds and that he may be called upon to arbitrate in disputes of almost any kind. His rôle is purely that of a mediator whose powers, both ritual and secular, are brought into operation only if there is a genuine desire by the hostile parties to reach an agreement. He has no executive powers with political force behind them, although it is expected that he will attempt to intervene in the *early* stages of a feud, and he sometimes threatens to use his power to curse the disputants if they will not agree. Moreover, in all matters in dispute, the frequency with which he will be approached depends largely on his prestige and personality, and not merely on his hereditary status. Other persons with no hereditary ritual status might easily acquire a reputation for fairness and tact and be employed as arbitrators in minor disputes. Skill in arbitration was considered by the Nuer one of the attributes of leadership (*rual*), and the *rois mandi* often extended their influence into the sphere of legal disputes.[1]

There are also other kinds of ritual experts who have specific functions to perform for public welfare: fertility in man and cattle, success in hunting and fishing, in raids and warfare. In this category are the *wut ghok* or cattle expert, the *kuar thoi*, the water expert, the *kuar yiëlo*, who is mainly concerned with the fecundity of women, the *kuar jiath*, who deals with epidemic diseases among humans, the *guan tang* or *kuar kiik*, who ensures the success of warriors in battle. These experts have regular duties to perform, a fact which distinguishes them from other categories of magical expert; they have an established ritual status in society, and are expected to carry out religious tasks which in some African tribes are less specialized or even embodied in the person of one man.[2]

Professor Evans-Pritchard has mentioned most of these experts in his writings on the Nuer, and has recorded most, but not all, of their duties. They are:

Kuar kuac or kuar muon: The Leopard-Skin Chief or Land Chief

The functions of this expert in connexion with homicide have been fully described in Chapter II. He is essentially an hereditary office,

[1] We are dealing here with the past. The functions of traditional experts are now much modified.

[2] The rich of the Dinkas, for example, who is, apart from his [redacted] and executive functions, generally responsible for fertility in man, cattle and crops, for success in hunting and fishing. (See Howell and Thomson, *op. cit.*, p. 9; and *Africa*, XXIII, 1953.) He is responsible, however, for those matters as affecting the whole tribe. There is also among the Dinkas a number of specialists responsible for local interests, *jal yath*, groups, etc.

10:Evans-Pritchard E-5 (1931-1936) 1940
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which gives them political unity and distinction is one of opposition. Between tribes, or federations of tribes, and foreign peoples this opposition is expressed, on the Nuer side at any rate, by contempt and persistent raiding, often carried out in a reckless and brutal manner. Between Nuer tribes, opposition is expressed by actual warfare or by acceptance that a dispute cannot, and ought not, to be settled in any other way. In intertribal warfare, however, women and children are neither speared nor enslaved. Between segments of the same tribe, opposition is expressed by the institution of the feud. A fight between persons of the same village or camp is as far as possible restricted to duelling with clubs. The hostility and mode of expression in these different relations varies in degree and in the form it takes.

Feuds frequently break out between sections of the same tribe and they are often of long duration. They are more difficult to settle the larger the sections involved. Within a village feuds are easily settled and within a tertiary tribal section they are concluded sooner or later, but when still larger groups are involved they may never be settled, especially if many persons on either side have been killed in a big fight.

A tribal section has most of the attributes of a tribe: name, sense of patriotism, a dominant lineage, territorial distinction, economic resources, and so forth. Each is a tribe in miniature, and they differ from tribes only in size, in degree of integration, and in that they unite for war and acknowledge a common principle of justice.

The strength of the sentiment associated with local groups is roughly relative to their size. Feeling of unity in a tribe is weaker than feeling of unity within its sections. The smaller the local group, the more the contacts its members have with one another and the more these contacts are co-operative and necessary for the maintenance of the life of the group. In a big group, like the tribe, contacts are infrequent, short, and of limited type. Also the smaller the group the closer and the more varied the relationships between its members, residential relations being only one strand in a network of agnatic, cognatic, and affinal relationships. Relationships by blood and marriage become fewer and more distant the wider the group.

It is evident that when we speak of a Nuer tribe we are using a relative term, for it is not always easy to say, on the criteria we have used, whether we are dealing with a tribe with two primary

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specifying which spirit they have in mind. Those who are aware of the circumstances will know which particular spirit is being referred to. Those who are not aware of them will only know that the man possesses one or other spirit and that the cow belongs to one or other spirit, without knowing which one.

Since God is *kwoth* in the sense of all Spirit and the oneness of Spirit, the other spirits, whilst distinct with regard to one another, are all, being also *kwoth*, thought of as being of the same nature as God. Each of them, that is to say, is God regarded in a particular way; and it may help us if we think of the particular spirits as figures or representations or refractions of God in relation to particular activities, events, persons, and groups.

That the diverse spiritual figures of Nuer thought are to be regarded as social refractions of the idea of God will be understood better if some examples are given of the problem in action. The ceremony I am about to describe concerned a *nin diet*, a delayed homicide. When a man has been wounded and recovers but dies some months, or even years, later his death may be attributed to the wound he received and compensation for homicide exacted. A blood-feud is unlikely to break out in these circumstances, for the killing may generally be regarded as accidental and, in any case, a long period of time has elapsed between the act and its consequence; and fewer, some twenty, head of cattle are demanded than for a straight killing, though the number seems to vary in different parts of Nuerland and is probably everywhere reached by negotiation between the parties, both of whom are anxious to reach a settlement as soon as possible. In the ceremony I witnessed, which took place in western Nuerland, the first and final rites of an ordinary homicide were combined, the slayer being cleansed of the blood and peace between the parties being made at the same time, and it took place after only some of the cattle had been paid.

It was held because a man of the Jikul clan had wounded a man of the Lual lineage with a fishing-spear some years before, and he had just died. The fact that he had been wounded by a fishing-spear was important because among the western Nuer less compensation is paid for a killing by fishing-spear or club than for a killing by fighting-spear, for it is less likely to have been premeditated. Apart from the slayer himself, there were no Jikul present at the ceremony, which on their side was conducted by their traditional allies the Ngwai lineage and in a Ngwai village. The

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absence of Jikul and the holding of the ceremony in a village of a third party made it easier for the Lual to be conciliatory.

After some drinking of beer, a sure sign that a settlement was certain, the people sat in the sun to watch proceedings. The heat was so intense that from time to time boys were told to place fresh cattle-dung on the ground so that those delivering addresses could stand in it now and again to cool their feet. One of them interrupted his narration to ask God to send a shower of rain to cool him, and the downpour which closed the proceedings was regarded as an answer to his request. The ceremony began with the castration of the young bull to be sacrificed. A Ngwol man then drove a stake into the centre of the kraal and tethered the ox to it, and many of the men present threw ashes over its back—a rite I discuss later. Then lengthy invocations, taking over three hours to deliver, were spoken by a Lual man, a Ngwol man, and a leopard-skin priest of the Kennyang lineage, the dominant lineage of the area in which all these lineages have their villages. I give only the gist of what they said because most of it little concerns the question we are considering.

Each speaker began his address by calling out his clan spear-name. He delivered his address walking up and down the kraal brandishing his spear. Most of what was said was addressed to the audience, who entered into lengthy arguments with the speakers about the matter in hand, besides carrying on conversation among themselves. But in the midst of their harangues the speakers frequently addressed *kwoth* by one or other title and explained to spirit so addressed the circumstances which had brought the people together.

The Lual representative, who made the first speech, besides addressing *kwoth*, spirit, and *kwoth a nhial*, spirit who is in the sky, called on '*kwoth wicda, kwoth nguaana*', 'spirit of our home or community (literally, cattle camp), spirit of our fig-tree', the fig-tree being the totem of his lineage. He began with a long account of the history of the lineage of the man responsible for the death with interminable references to past disputes, threatening that if ever the Jikul or the Ngwol fought his people again the Lual would exterminate them, to all the events which led up to the quarrel in which the dead man had been wounded, and to cattle which had been paid or promised in compensation for the homicide and the further cattle which were being demanded.

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Among his observations he accused the Ngwot of having buried a living ox with some beads and a spear to kill the Lual, and this provoked a violent argument in which the Ngwot part of the audience retorted that the Lual had buried a dog alive in a byre to kill them (I do not know whether such practices ever really occur).

The Ngwot representative then delivered a rambling address. He often mentioned *kwoth* in it, though not, so far as I heard, with any particular specifications. His chief point was that the Jikul were paying compensation in cattle for the dead man and that if the Lual reopened the quarrel it would be to their disadvantage, the Jikul being fully able to look after themselves if it came to fighting again. He then, from the Jikul angle, repeated the whole history of the affair, a recapitulation which stirred up involved controversy with the Lual men present. In these invocations grievances, both real and imagined, are made public, not with the purpose of complicating the issue or inflaming passions, but because it is the rule of such gatherings that everything a man has in his heart against others must be revealed and no bitterness kept secret.

Finally, the leopard-skin priest, whose function is to cleanse a killer and to perform rites to terminate a blood-feud, rose and addressed the assembly. In his invocation he frequently, in addition to speaking to *kwoth* and *kwoth a nhial*, called on '*kwoth riengda*', a phrase which literally means 'spirit of our flesh' and which refers to the spiritual source of ascendoral power. He told the slayer that as some of the cattle had already been paid and the remainder were about to be paid he might go abroad without fear of vengeance. He told the kinsmen of the dead man that if they started a feud their spears would miss their mark and that they would do well to take the cattle and settle the affair for ever. He warned the kinsmen of the slayer not to try and hide their cattle, that is, send them secretly to the kraals of distant kinsmen and then say that they had not the wherewithal to meet their obligations. He, also, recapitulated the whole history of the quarrel, from the point of view of an impartial onlooker and mediator.

At the end of his address he speared the ox and those present rushed in, as is the custom on this occasion, to obtain what they could of the carcass, hacking and slicing, waving their spears, and shouting. It was a scene of great confusion. When things had

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627 quietened down the leopard-skin priest cut off some of the hair of
776 the head of the man who had occasioned the death: 'the blood
783 which entered into his body is purged (*riem ne ce wa pwonyde ba wut*), other hairs will grow (*bi miem ti ekiec dony*), the blood is finished (*ce riem thuk*)'.

776 The ceremony I have described is typical in form of Nuer religious ceremonies. What I want here to draw attention to in it are the different titles mentioned in the invocations: *kwoth*, Spirit, without further designation, *kwoth a nhial*, Spirit who is in the sky, *kwoth wic(da)*, spirit of the home, *kwoth ngoap(na)*, spirit of the fig-tree, and *kwoth riang(da)*, spirit of the flesh (the virtue of the leopard-skin priest); and there may have been others which I did not hear. Besides these titles such expressions as *gwandong*, grandfather, and *kwoth gwara*, spirit of our fathers, were used. At other ceremonies at which people of different families and lineages from those concerned in this particular ceremony have been represented I have heard references in invocations to a variety of other spirits—totemic spirits, colwic spirits, and spirits of the air. How are we to interpret Nuer thought about the nature of Spirit as it is expressed in such ceremonies as the one I have described?

In this particular ceremony several groups were opposed to each other, and the leopard-skin priest was acting in his priestly capacity as mediator between them and to conclude a settlement by sacrifice. The persons who made the invocations therefore appealed to, or spoke about, God not only as God but also as God in his special relation to the groups they represented, and in the case of the leopard-skin priest to God in his special relation to the priestly function as well as to a particular priestly lineage. The circumstances may be compared to a war between European powers in which each prays for victory to the God of its fathers, Lord of its battle-line. Those engaged in the struggle do not believe that two distinct deities are being appealed to. That this is the correct interpretation of the Nuer material is shown by a number of observations, one of the most significant being the fact that although the invocations were made to different titles they were all made over the same victim and this same victim was offered up by all the parties concerned. This appears to me to be proof that the sacrifice was made to one and the same being. Another significant observation is the fact that in situations in which no sectional interests are at stake but where men approach God simply as men and in the

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context of their common humanity, as, for example, when furious storms are raging, in times of severe drought and famine, or when a man is seriously ill, then God alone, or in certain circumstances one of his hypostases by which he is figured in relation to some particular natural phenomenon, is addressed and he is not, as it were, divided by a variety of titles along the lines of the social structure. This may also be to a large extent the case even where different social groups are involved, so long as they are not antagonistic but have a common interest and intention. I give one such illustration.

A youth in a village where I was residing was badly wounded in the shoulder by a spear in a fight with a man of the next village. His antagonist had not intended to kill him and the people of the two villages were on good terms, so his kinsmen at once sent the spear with which the wound had been inflicted to the injured youth's home with expressions of regret and wishes for a speedy recovery. The elders of the wounded lad's home bent the point of the spear and placed it point downwards in a pot of cold water. This was done to lessen the pain of the wound, especially when it was washed, and to cool the inflammation. Next morning the wounder's village sent us a deputation, leading a goat for sacrifice. By this further indication of their regrets and of their willingness to pay compensation at once should the lad die they anticipated a blood-feud. It was hoped in any case that the danger of death would be obviated by the sacrifice of the goat. The wound would, as the Nuer put it, 'be finished with the goat'.

Before the animal was sacrificed the visitors consecrated it by rubbing ashes on its back. It was then tied to a stake opposite the hut of the wounded youth's maternal grandmother and an invocation was delivered over it by a man called Lel, a leopard-skin priest and also a prophet, who had been summoned from a distance to officiate, partly, I think, because his presence would give greater importance, and therefore perhaps efficacy, to the ceremony and partly because it would be a further insurance for a peaceful outcome to the incident. His address was largely taken up with reiterations that the youth would not die and with giving to God and the people a lengthy and detailed account of how the accident had occurred. He sacrificed the goat at the conclusion of his speech. Our home party then brought forward a wether and it was also consecrated with ashes. Afterwards a man of the home

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627 782 776 poured a libation of water over its tethering-peg as a prelude to delivering an oration. He told the story of the accident all over again and commented on it to God in this vein: 'ah God! We call on you about this wound. There is no enmity between us [the party of the injured youth and the party of the spearer]. This wound came of itself [they do not attribute it to the spearer because it was an accident and also because the youth will not die and so there will be no *thung*, debt of homicide]. Throw the badness away with this cow [they call a sheep or goat a 'cow' in sacrificial contexts]. Let the wound heal. Ah God! it is only a headache [it is not a sickness of any importance—they speak of the most ghastly wounds in this way], let it be finished, let it go right on [heal without complications]. Let it be removed from the man's body. Let us be at peace.' Another man of the home party also made an invocation in much the same language: 'Friend (*maadh*), God who is in this village, as you are very great we tell you about this wound, for you are God of our home in very truth. We tell you about the fight of this lad. Let the wound heal. Let it be ransomed [with the sheep]'; and so forth. A representative of the visitors now said a few words to the same purpose and the sheep was then sacrificed. The meat of both sacrifices was eaten by the people of the home after the visiting deputation had departed; and also the carcass of a third animal, another wether, which the people of the home later sacrificed after three of them had made further invocations over it in much the same vein.

In this ceremony Spirit was addressed simply as *kwoth* and no designated refractions were mentioned, and when on such occasions Nuer speak to, or about, *kwoth* without differentiating specifications they are, as I have explained, speaking to, or about, Spirit in the comprehensive conception of God the creator and the sustainer of life. This is often the case in their sacrifices, and it is the same when they pray for peace and deliverance from evil.

776 613 That emphasis is given to the refractions when a social group, acting as such and marking itself off from other groups, makes a sacrifice on behalf of itself or of one of its members in virtue of his membership of it, and that they are then to be regarded as diverse exclusive representations of God by which he is figured to the groups concerned in a special way as their patrons is evident also from other considerations. It is clear that totemic spirits of lineages are Spirit conceived of in a tutelary relationship to the

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765 that they might sleep quietly and their souls be 'cool' (koor thet).
782 Their remarks also contained many reflections on life and human destiny and the transience of all living things, and they recounted the deeds of the dead and reiterated that he had left sons to carry [427] on his name and lineage. Speakers and listeners also stated any grievances they had in their hearts towards kinsmen, for any of the kin of the dead man who bears a grudge against a relative must now declare it. If he does not do so now, he must for ever keep silence. This is an occasion for amicable settlement of family and kinship quarrels. Thus at this ceremony the senior wife of Mayan, the eldest son of the dead man, complained that her cow had been given by her husband to his second wife. A wife of the dead man who had gone to live with another man, taking her daughter with her, said that she wished now to live at her dead husband's home, and cattle of her bridewealth which had been returned were sent back again to her people on the day of the ceremony.

765 A part of the ceremony I did not see, for it was taking place elsewhere during these orations, was the preparation of porridge and beer. The master of ceremonies makes three new clay fire-stones, places on them a new pot, and pours water into the pot. He then puts out the old fire in the dead man's homestead, throws its ashes and fire-stones into the bush, and starts a new fire under the pot. He begins the mixing and stirring of the porridge. When the women have cooked the porridge he ladles it out with a new gourd-ladle into a new gourd-dish. All the utensils are new for the occasion. The porridge and a pot of beer were now carried to where we were sitting, and as each of the later speakers rose to make his speech he dipped a gourd-ladle into the pot of beer and poured a libation to the ground.

When the last speech was finished everyone stood up and the master of ceremonies dipped wild rice into a gourdful of milk and aspersed the people with it. He did this many times till everyone had been aspersed. He then sprinkled the dead man's possessions and poured what was left of the milk at the side of a tethering-peg over the dung which had been spread out to dry, and knelt down and kneaded the milk with the dung. I was told that the cattle and huts were also aspersed with milk. I believe that milk is only used in this rite if the dead man was, like Lam, 'a man of the cattle' (pp. 300–1). In the case of a leopard-skin priest water